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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,442	01/05/2001	Anne E. Robb	PC-930	5126

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LAW OFFICES OF BRIAN S STEINBERGER
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COCOA, FL 32922

EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/755,442	Applicant(s) ROBB ET AL.	
	Examiner Matthew S. Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-9,12-14,16,23,24 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9,12-14,23,24,30 and 32-35 is/are rejected.
- 7) ☒ Claim(s) 16 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/29/2007 has been entered.

Prosecution History Summary

- Claims 3-5, 10-11, 15, 17-22 and 25-29 were cancelled in the instant invention.
- Claims 30-35 have been added.
- Claims 1-2, 6-9, 12-14, 16, 23-24 and 30-35 are currently pending in the instant application.

Response to Amendment

The rejection of claims 1-2, 6-9, 12-14 and 16 under 35 U.S.C. 112, first and second paragraph has been vacated in view of the amendment submitted on 1/29/2007.

Allowable Subject Matter

Claims 16 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because:

- Figure 2-3: The text overlaps various flowchart symbols.
- Figure 5-30: Blurry improper text and improper shading, which may affect clarity once reproduced.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid

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abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 6-9, 12-14, 16 and 24 are rejected under 35 U.S.C. 112, second paragraph.

Referring to claims 1-2, 6-9, 12-14, 16 and 24. Claim 1 recites the limitation “their customer owned” in line 12. There is insufficient antecedent basis for this limitation in the claim. The limitation should read “the customer owned.” Claims 2, 6-9, 12-14 and 16 are dependent on claim 1 and acquire the same deficiencies found in claim 1.

Referring to claim 24. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 discloses a method wherein an external end buyer-user being a buyer for at least one of “a make.” It is unclear what constitutes a make in the context of claim 24.

Referring to claim 24. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 24 purports the utility of “accessing classification information on a web based system,” but

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the body of the claim is not commensurate with the scope of the preamble, and does not provide the active steps necessary to achieve the purported utility.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 7-9, 12-14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Showghi (U.S. Patent No. 6,473,739) in view of Pentel (U.S. Patent No. 6,880,750).

Referring to claim 1. Showghi discloses a method of accessing classification information on a system through handheld display devices, until a finite selection point is achieved without inputting any search queries, comprising the steps of:

- Providing a handheld display device that is selected from at least one of a pager, a cell phone, and a PDA (Showghi: column 3, lines 1-5);
- Providing different advertisements from different sellers (Showghi: column 1, lines 40-46);
- Accessing and viewing a main menu page of category headings by a user on the handheld device (Showghi: column 5, lines 40-48, "Major Item Classification Menu **34**");
- Selecting and viewing at least one of the category headings on the main menu page on the handheld display device (Showghi: Fig. 4, "Major Item Classification Menu **34**, Selection 3");

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- Accessing and viewing another menu page having subcategory headings from the first selecting step on the handheld display device (Showghi: column 5, lines 40-48, "Drink Menu **36**");
- Selecting and viewing at least one of the subcategory headings on the handheld display device (Showghi: Fig. 4, "Drink Menu **36**, Selection 2");
- Repeating accessing and selecting and viewing by solely scrolling down only one single vertical column on each successive menu page on the handheld display device, until the user reaches an end of a menu series to a finite selection list of a classification that is listed in a single vertical column, wherein interaction of the accessing of the pages, and the selecting are navigated on the handheld display device without inputting any search queries (Showghi: Fig. 3a-3d and Fig. 4); and
- Viewing the single column of the finite selection list of the classification by scrolling down the finite selection list on the handheld display device, without the inputting of any search queries (Showghi: column 7, lines 17-34).

Showghi (U.S. Patent No. 6,473,739) claims domestic priority to Provisional application No. 60/131119, filed on April 27, 1999. Provisional application No. 60/131119 does not expressly disclose a method of accessing classification information via a remote web site through a customer owned conventional personal handheld device.

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Pentel discloses a method of accessing classification information via a remote web site (Pentel: column 3, lines 41-46) through a customer owned conventional personal handheld device (Pentel: column 10, lines 10-17).

Pentel further discloses connecting to a remote web site through existing wireless telephone lines and not by either infrared or separate radio frequency transmission mediums, by a customer using their customer owned conventional personal handheld display device from a location remotely away from the remote web site (Pentel: column 3, lines 30-53),

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Showghi to have included the teachings of Pentel because there is a need for a generalized remote ordering device for customer use inside or outside a facility such as a restaurant, auto repair facility, retail store, grocery store, airport or other service facility (Pentel: column 1, line 66 to column 2, line 5).

The Examiner notes, the labeling of the menu page, category headings, and sub-category headings (i.e., first, second or third) is only found in the nonfunctional descriptive material and does not alter how the method operates. The application would be operable in the same manner regardless of said labeling. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Referring to claim 2. Showghi further discloses a method of accessing classification information wherein the steps of accessing of the first page, the second page, the third page, and the first selecting, the second selecting and the third selecting include the user navigating each accessing and selecting step by voice command using the handheld display device (Showghi: column 4, lines 25-37).

Referring to claim 7. Showghi further discloses a method wherein the first subcategory headings include headings for: makes, items, and services (Showghi: Fig. 4).

Referring to claim 8. Showghi further discloses a method of accessing classification information comprising the step of solely listing the first subcategory headings on the second menu page in a single vertical column and selecting from the single vertical column of the first subcategory by scrolling down there through (Showghi: column 5, lines 40-48, "sub-menu 38").

Referring to claim 9. Showghi in view of Pentel discloses a method according to claim 1 as indicated supra. Pentel further discloses a method comprising the step of solely filtering and sorting the finite selection list of the classification into a filtered and sorted list; and viewing the filtered and sorted list, wherein filtering and sorting only occurs at the finite selection (Pentel: column 6, lines 45-56).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Showghi to have included the teachings of Pentel because there is a need to purchase a variety of items via a single interface (Showghi: column 1, lines 40-46).

Referring to claim 12. Showghi further discloses a method wherein the user is at least one of: a buyer and seller, each user having an interest in at least one of: a good, a make, an item, and a service (Showghi: Fig. 2).

Referring to claim 13. Showghi further discloses a method wherein the classification information includes: advertisements by sellers, each of the sellers listings at least one of: goods, makes, items and services (Showghi: column 8, lines 23-32).

Referring to claim 14. Showghi in view of Pentel discloses a method according to claim 13 as indicated supra. Pentel further discloses a method comprising the step of requesting an unlisted item from the web based system by a buyer-user, the unlisted item being for at least of: a good, a make, an item and a service (Pentel: column 3, lines 54-56, "...designating a place for delivery.").

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Showghi to have included the teachings of Pentel because there is a need to purchase a variety of items via a single interface (Showghi: column 1, lines 40-46).

Referring to claims 23 and 30. Claims 23 and 30 are rejected under the same rationale as set forth above in claim 1 and 9.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Showghi (U.S. Patent No. 6,473,739) in view of Pentel (U.S. Patent No. 6,880,750) in further view of Bidz (PTO-892, Ref U).

Referring to claim 6. Showghi in view of Pentel discloses a method according to claim 1 as indicated supra. Showghi in view of Pentel does not expressly disclose a method of accessing classification information wherein the category headings include: Headings for: agriculture, aircraft, automobiles, boats, heavy equipment, heavy trucks, industrial, medical, pickup trucks, recreational vehicles, and sport utility vehicles and vans.

Bidz discloses a method of accessing classification information wherein the category headings include: Headings for: agriculture, aircraft, automobiles, boats, heavy equipment, heavy trucks, industrial, medical, pickup trucks, recreational vehicles, and sport utility vehicles and vans (Bidz: page 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Showghi in view of Pentel to have included a plurality of headings as taught by Bidz because the inclusion of such headings would have been an obvious matter of design choice in light of the method already disclosed by Showghi in

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view of Pentel. Such modification would not have otherwise affected the method of Showghi in view of Pentel and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Showghi in view of Pentel. Additionally, applicant has not persuasively demonstrated the criticality of providing these specific headings versus the headings disclosed by Showghi in view of Pentel.

Referring to claims 32-35. Claims 32-35 are rejected under the same rationale as set forth above in claim 6.

Response to Arguments

Applicant's arguments with respect to all the rejected claims have been considered but are not persuasive.

The applicant argues that the provisional application relied upon in Showghi does not show many of the features relied upon by the Examiner including "a customer owned personal handheld display device" so that a customer uses their own "cell phone, page or personal digital assistant."

The Examiner notes, this feature was shown in the Pentel reference. Pentel discloses a method of accessing classification information on a web-based system through a customer owned conventional personal handheld device (Pentel: column 10, lines 10-17).

Pentel further discloses connecting to a remote web site through existing wireless telephone lines and not by either infrared or separate radio frequency transmission mediums, by a customer using their customer owned conventional personal handheld display device from a location remotely away from the remote web site (Pentel: column 3, lines 30-53),

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Showghi to have included the teachings of Pentel because there is a need for a generalized remote ordering device for customer use inside or outside a facility such as a restaurant, auto repair facility, retail store, grocery store, airport or other service facility (Pentel: column 1, line 66 to column 2, line 5).

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In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pub-No: JP02000242667A, System and method for transmitting and distributing instruction of tour to information device, 02-1999, discloses a cellular telephone with a text based Internet browser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MSG

Primary Examiner

February 27, 2007


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600